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Sea Level Wrangling Aired

■ Charges and Countercharges Fly Over Gate Removal

A legal battle between a property owner, who wants to sell his beach-front property along Sea Level Drive to the state, and the homeowners association, which took the matter to court just days before the state was to acquire the property, spilled over into the Malibu City Council chambers last week when the property owner and some homeowners appealed to the city council to get involved in the matter.

The already intense squabble was taken up another notch when Norm Haynie, who oversees the interests of Lechuza Villas West, the entity that contends it owns 21 lots and Sea Level Drive, sought an application from the City of Malibu to tear down existing gates to the private road.

City officials indicated that the application was deemed incomplete because of questions about the ownership of the private road that have been raised.

Haynie told the council members that he was asking for their assistance because he believed the municipality's planning department was relying on the area homeowners association's Covenants, Conditions & Restrictions to try to prevent him from applying for a permit to take down the gates.

"In the past, the city council has taken a strong position to not enforce the C, C & Rs. I was told

by the planning director that he wants to see the C, C & Rs. Am I going to be singled out for selective enforcement?" Haynie asked the council members.

Haynie complained that he had previously been denied a permit by the California Coastal Commission to build homes on the property and that, according to the homeowners' lawsuit, "I can't use it for the public beach."

In an escalating public relations battle, one of the board members of the Malibu-Encinal Homeowners Association, or MEHOA, said the lawsuit was filed not to block the sale to the public, but to have the courts determine the legalities of a number of ownership issues.

"We are proud of our beach. We have never closed the beach to the public. We have to have the [legal] rights ascertained. We are not rich homeowners who want to have a private beach," said Elizabeth Lynch, who told council members that members of MEHOA have not been included in all of the meetings leading up to a possible land acquisition by the state.

Jumping into the fray, Planning Commissioner Andrew Stern, who said he hopes to build a home on Sea Level Drive, indicated that the homeowners association believes that there was no Coastal Commission permit for the gates because they were

grandfathered in.

"Speaking as a soon-to-be homeowner [in the vicinity], the homeowners association is charged with operating the streets and the gate. We are the managers of the street. The question of ownership is the first question. Does Norm Haynie own the street?" asked Stern, to which Haynie shouted out, "Just look at the title."

Interim City Manager Christi Hogin reiterated the city's policy on no enforcement of homeowner association C, C & Rs and cautioned the council to stay out of the legal wrangle.

"I'd encourage you not to get involved," Hogin told the council members. After the meeting, the interim city manager said the municipality was treating the application as incomplete because of the legal questions surrounding ownership.

The state has offered to pay over \$10 million for the beach-front property, but public acquisition of the sandy shoreline has been held up because the homeowner association's lawsuit is attempting to create a cloud on the title.

Currently, beachgoers can proceed through the pedestrian gates that are allowed to remain open during the day, and they are allowed to walk down Sea Level Drive to access the shoreline.

BY BILL KOENEKER